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Counsel for Jeanne E. Huffman, Ch. 7 Trustee

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

**Northwest R.V. Sales, Inc.,**

Debtor.

Case No. 16-63655-tmb7

**MOTION FOR ORDER (1) DESIGNATING  
TRUSTEE TO PERFORM CERTAIN  
DUTIES OF DEBTOR AND (2)  
APPROVING SUPPLEMENTAL NOTICE  
TO CREDITORS**

Jeanne E. Huffman (the “**Trustee**”), chapter 7 trustee of the estate of the above-captioned debtor (the “**Debtor**”), hereby moves the Court for an order, pursuant to 11 U.S.C. §§ 105(a), 521, 542, and Federal Rules of Bankruptcy Procedure 4002 and 9001(5), both (1) designating the Trustee to perform certain duties of the Debtor, and (2) approving a supplemental notice to creditors, as set forth below.

This motion is supported by the attached Declarations of Jeanne E. Huffman and of Russell Johnson, the former principal of the Debtor as provided by his bankruptcy counsel. In support, the Trustee respectfully states as follows:

## BACKGROUND

1. The Debtor formerly operated a dealership selling new and used recreational vehicles and parts.
2. Upon information and belief, after complaints from customers and consignors, the Debtor's dealership certificate was revoked in October 2016.
3. Upon information and belief, both the Oregon Department of Justice and the Oregon Department of Motor Vehicles are investigating the Debtor for potential wrongdoing.
4. The Debtor ceased operating on or about October 31, 2016.
5. On or about November 1, 2016, the Debtor voluntarily entered into an assignment for the benefit of creditors (the "**ABC**").
6. Kenneth Eiler was the assignee of the Debtor's assets in the ABC. *See* attached Declaration of Jeanne E. Huffman ("**Huffman Dec.**"), at ¶ 4.
7. Mr. Eiler took possession of assets of the Debtor, including certain books and records of the Debtor, and liquidated certain assets of the Debtor. Mr. Eiler also compiled a list of potential creditors and sent out a notice of a claims bar date, as well as advising of other issues in the ABC. *See id.* at ¶ 5. A copy of the Notice sent by Mr. Eiler is attached to the Huffman Dec. as Exhibit A.
8. On December 21, 2016, the above-captioned involuntary chapter 7 case was commenced against the Debtor. *See* Docket No. 1.
9. No party contested the involuntary filing.
10. On January 30, 2017, the Court entered its Order for Relief and Designating Person to Perform Duties of Debtor; Trustee Appointment (Docket No. 5) (the "**Order of Designation**").
11. Upon the entry of the Order of Designation, the property held by Mr. Eiler as custodian pursuant to the ABC became property of the estate and subject to turnover to the Trustee. *See* 11 U.S.C. §§ 542, 543. Mr. Eiler has since turned over his records, including proofs

of claim filed in the ABC, as well as the funds of the ABC remaining after the liquidation of the Debtor's assets by an auctioneer: approximately \$25,000. *See* Huffman Dec. at ¶ 7.

12. The Court's Order of Designation (a) granted relief under Chapter 7 of Title 11 of the United States Code; (b) designated Russell Johnson, the President of the Debtor, to fulfill the duties of the Debtor in this case; and (c) appointed the Trustee as interim trustee of the estate. *See generally* Order of Designation.

13. Among other things, the Order of Designation required Mr. Johnson to file documents required under Fed. R. Bankr. P. 1007 by specified deadlines, and, if he failed to do so, to appear at a hearing before the Court on February 28, 2017 to explain any failure to comply with the Order of Designation. *See id.* at ¶ 4.

14. The Order of Designation also provided that, should Mr. Johnson fail to obey the Court's orders, the Court "may order a third person to perform the duties mentioned above and enter a judgment against you to pay such person reasonable compensation for the services performed and other reasonable costs." *Id.*

15. Mr. Johnson failed to comply with the Order of Designation, and also failed to appear at the February 28 hearing. At the February 28 hearing, the Court authorized the Trustee's counsel to submit a proposed order compelling Mr. Johnson's cooperation with the Order of Designation. *See* Docket No. 13 (Hearing Notes).

16. After the February 28 hearing, counsel to the Trustee learned that Mr. Johnson has retained personal legal counsel Ron Hoevet (to advise on potential criminal law issues) and Shawn Ryan (to advise on bankruptcy law issues). *See* Huffman Dec. at ¶ 10.

17. Counsel to the Trustee has been discussing Mr. Johnson's participation in the case going forward with Mr. Ryan. For purposes of this Motion, the Trustee was provided with a copy of the Declaration of Russell Johnson (the "**Johnson Dec.**"), which has been attached hereto. *See id.* at ¶ 11.

### **Arranging a Continued Meeting of Creditors**

18. The initial meeting of creditors was originally scheduled for February 24, 2017, at 4:30 p.m. in Salem, Oregon. However, no notice of the meeting was served on creditors, and the meeting was adjourned by the Trustee.

19. In his Declaration, Mr. Johnson asserts that he is willing to attend a continued meeting of creditors on May 4, 2017 and answer questions. *See* Johnson Dec. at ¶ 4.

20. The Trustee has arranged with the United States Trustee and the Bankruptcy Court to hold the Meeting of Creditors at the Portland courthouse at 2:00 pm on May 4, 2017, in the 8<sup>th</sup> Floor Conference Room (accessible from the 7<sup>th</sup> Floor). *See* Huffman Dec. at ¶ 12.

21. At this continued Meeting of Creditors, Mr. Johnson may assert his Fifth Amendment rights to some questions; however, the Trustee intends to ask them anyway. The Trustee also intends to provide her own general information to the creditors in attendance regarding the bankruptcy case. *See id.* at ¶ 13.

### **Creditor Matrix & Bankruptcy Schedules**

22. Mr. Johnson will not complete the Debtor's matrix or schedules. His Declaration provides, he has "been advised by counsel to assert [his] rights pursuant to the Fifth Amendment of the United States Constitution in response to certain, anticipated questions, whether at the continued meeting of creditors, a FRBP 2004 exam, or otherwise, and to not complete the schedules and lists as provided in FRBP 1007(a)(2)." *See* Johnson Dec. at ¶ 5.

23. Based on this statement in his Declaration, it appears Mr. Johnson will not assist with the preparation of lists and schedules for this chapter 7 proceeding, regardless of any order compelling him to do so.

24. Notwithstanding Mr. Johnson's nonparticipation as designee, the Trustee believes that she and her counsel have prepared a complete creditor matrix containing actual and

potential creditors of the Estate, attached hereto as **Exhibit 1**. This matrix is based on data obtained from a variety of sources, including from

- (a) Mr. Eiler as ABC assignee, including his schedules of those who filed proofs of claim in the ABC;
- (b) the QuickBooks records of the Debtor, which were held by the Debtor's CPA who recently turned them over;
- (c) the service list in the state court Traveler's surety bond interpleader action, referenced in Traveler's Motion for Relief from Stay (Doc. 25);
- (d) the Debtor's consignment agreements, showing lienholders and consigning parties who did not get paid, as well as the sales agreements indicating the buyers of those consigned RVs who did not received titles; and
- (e) communications of the Trustee and her counsel with interested parties since her appointment.

*See Huffman Dec. at ¶ 14.*

25. The Trustee also believes she can complete reasonably accurate schedules of the Debtor, using documentation and records described above, as well as from the files of the Debtor's prior counsel, Robert J. Vanden Bos, and from the Debtor's CPA. *See id.* at ¶ 15.

26. Prior to and during the ABC, the Debtor was represented by Mr. Vanden Bos. Mr. Vanden Bos no longer represents the Debtor, in this bankruptcy proceeding or otherwise. However, Mr. Vanden Bos has documents and information of the Debtor in his possession or control. *See Huffman Dec.*, at ¶ 16. The Trustee contends that any documents of the Debtor in Mr. Vanden Bos's possession or otherwise are now estate property, and the Trustee holds any applicable privilege with respect to such documents. *See id.* at ¶ 17. Mr. Vanden Bos has turned over documents to Mr. Ryan as Mr. Johnson's bankruptcy law counsel,

which Mr. Ryan is presently reviewing for alleged privilege issues so that a privilege log can be prepared. *See id.* at ¶ 18.

27. The Trustee understands that for many years, the Debtor employed CPA Greg Rogers of Rogers Financial Services for tax preparation services. With permission of Mr. Ryan, Mr. Rogers has agreed to turn over the Debtor's QuickBooks file (purportedly containing the Debtor's financial records) as well as other records of the Debtor, including prior years' tax returns. Mr. Rogers completed his production to the Trustee last week. *See id.* at ¶ 19.

28. The Trustee believes the documents and information obtained from Mr. Eiler and from Mr. Rogers, along with any additional documents and information held by Mr. Vanden Bos, will provide a basis for completing at least most of the Debtor's Schedules and Statement of Financial Affairs. To the extent such documents and information are not sufficient, the Trustee may seek to examine Mr. Johnson (although it seems unlikely he would answer questions) and/or subpoena third parties in an effort to obtain additional documents and information. *See id.* at ¶ 20.

### **RELIEF REQUESTED**

By this Motion, the Trustee seeks the entry of a supplemental order of designation:

- (a) designating the Trustee to file, to the best of her ability under the circumstances, the documents required in Paragraph 3 of the Order of Designation, including uploading the creditor matrix in substantially the form attached as **Exhibit 1**;
- (b) requiring Mr. Johnson to pay reasonable compensation for the services performed and other reasonable costs related to the preparation and filing of the documents required under the Order of Designation;
- (c) authorizing the Trustee to reschedule a meeting of creditors for May 4, 2017, at 2:00 p.m.;

- (d) compelling Mr. Johnson to appear and testify at the rescheduled meeting of creditors;
- (e) authorizing and directing the Clerk of the Court to send an Official Form 309D Notice of the rescheduled meeting of creditors and deadlines for filing proofs of claim, together with the Court's standard form of "Order and Notice of Time to File Claims" (Form OFT) with instructions on filing a claim in this Court; and
- (f) approving the form of a supplemental notice to creditors, substantially in the form attached hereto as Exhibit 2, to be served with the Official Form 309D Notice and the OFT.

### **BASIS FOR RELIEF REQUESTED**

This is an unusual case. The Debtor has cash and other assets, including avoidance actions, to be administered for the benefit of creditors. Yet the Debtor's principal is unwilling to cooperate, and it appears doubtful that he would comply with any further order of the Court compelling him to do so. In addition, there appears to be no other person affiliated with the Debtor with sufficient knowledge to perform the duties of designee under 11 U.S.C. § 521.

Under the circumstances, the Trustee appears to be the party in the best position to prepare a creditor matrix, notice the meeting of creditors, file Schedules, and move this case forward. Accordingly, the Trustee requests the entry of an order designating the Trustee as designee of the Debtor. In addition, the Trustee requests that, as provided for in the Order of Designation, the Court require Mr. Johnson to pay reasonable compensation for the services performed by the Trustee (and parties assisting the Trustee), and other reasonable costs related to the tasks described herein, based on a further application and order.

As noted above, a meeting of creditors was originally scheduled for February 24, 2017, but no notice was provided to creditors and the meeting was continued. The Trustee requests authority to reschedule a meeting of creditors for May 4, 2017, at 2:00 p.m., and that the

Court authorize and direct the Clerk of the Court to send an Official Form 309D Notice of the rescheduled meeting of creditors and simultaneously notice the deadline for filing proofs of claim using the Court's standard form of "Order and Notice of Time to File Claims" (Form OFT), which provides instructions on filing a proof of claim in this Court.<sup>1</sup>

The Trustee further requests that the Court approve the form of a supplemental notice to creditors, substantially in the form attached hereto as **Exhibit 2**, to be included and served with the Official Form 309D Notice and Form OFT. The purpose of this request is to provide additional information about this Chapter 7 case to creditors – many of whom are likely to be unaware of the case filing and may be confused by receiving bankruptcy notices after having already received from Mr. Eiler a now-obsolete notice of the ABC claims bar date. The Trustee's form of supplemental notice explains the transition of this proceeding from the ABC to a bankruptcy case, explains in plain language the need to file new proofs of claim, and advises creditors to monitor and participate in the bankruptcy case if they choose to do so.

Finally, although Mr. Johnson has indicated that he intends to invoke his Fifth Amendment right against self-incrimination, the Trustee nevertheless requests the Court include in any order granting the relief requested herein a provision requiring Mr. Johnson to appear and answer questions at the rescheduled meeting of creditors – as he has represented he is willing to do.

As this Court is aware, a party cannot invoke the privilege against self-incrimination in a blanket fashion. Rather, that party must be ready to show, related to each question, that there is a real danger of incrimination, that there is some nexus of risk, or that the information provided will provide a link in the chain of information required for prosecution. *See, e.g., McKnew v. Wilson (In re McKnew)*, 2015 Bankr. LEXIS 2205, \*2-6 (Bankr. C.D. Cal. July 2, 2015); *In re Connelly*, 59 B.R. 421, 430-34 (Bankr. N.D. Ill. 1986). If and when Mr. Johnson

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<sup>1</sup> The Trustee anticipates there will be funds available for distribution in this case, and setting a claims bar date is therefore appropriate at this time.



invokes a privilege under the Fifth Amendment at the meeting of creditors or otherwise, the propriety of doing so can be addressed. Besides Mr. Johnson's testimony, the Trustee can offer general information to the creditors in attendance at the Meeting of Creditors based on her investigation to date.

### **CONCLUSION**

WHEREFORE, the Trustee requests that the Court enter the proposed Order attached hereto.

DATED: April 13, 2017

LEONARD LAW GROUP LLC

By: /s/ Justin D. Leonard  
Justin D. Leonard, OSB 033736  
Timothy A. Solomon, OSB 072573  
Counsel for Trustee Jeanne E. Huffman

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

**Northwest R.V. Sales, Inc.,**

Debtor.

Case No. 16-63655-tmb7

**ORDER (1) DESIGNATING TRUSTEE TO  
PERFORM CERTAIN DUTIES OF  
DEBTOR AND (2) APPROVING  
SUPPLEMENTAL NOTICE TO  
CREDITORS**

This matter comes before the Court on the motion (the “**Motion**”) of Jeanne E. Huffman (the “**Trustee**”), chapter 7 trustee of the estate of the above-captioned debtor (the “**Debtor**”), for entry of an order, pursuant to 11 U.S.C. §§ 105(a), 521, 542, and Federal Rules of Bankruptcy Procedure 4002 and 9001(5), both (1) designating the Trustee to perform certain duties of the Debtor, and (2) approving a supplemental notice to creditors. The Court having considered the Motion, and being otherwise duly advised and informed,

NOW, THEREFORE, it is ORDERED:

1. The Trustee is hereby designated to file, to the best of her ability under the circumstances, the documents required in Paragraph 3 of the Court’s prior Order for Relief and Designating Person to Perform Duties of Debtor; Trustee Appointment (Docket No. 5),

including promptly uploading the creditor matrix in substantially the form attached as **Exhibit 1** to the Motion.

2. Russell Johnson, the President of the Debtor, shall pay reasonable compensation to the Trustee and her professionals for the services performed and other reasonable costs related to the preparation and filing of the documents required hereunder, pursuant to a separate application of the Trustee for review and approval by this Court.

3. The Trustee may reschedule a meeting of creditors for May 4, 2017, at 2:00 p.m. (the “**Meeting of Creditors**”).

4. Mr. Johnson shall appear and testify at the Meeting of Creditors.

5. The Clerk of the Court is authorized and directed to send an Official Form 309D Notice of the rescheduled meeting of creditors and deadlines for filing proofs of claim, together with the Court’s standard form of “Order and Notice of Time to File Claims” (Form OFT) with instructions on filing a claim in this Court.

6. The form of a supplemental notice to creditors, substantially in the form attached to this Order (the “**Supplemental Notice**”), is hereby approved.

7. The Clerk of the Court shall serve a copy of the Supplemental Notice upon the creditor matrix, together with the Official Form 309D Notice and the OFT.

# # #

LBR 9021-1(a) Certification: *TBD*.

Presented by:

LEONARD LAW GROUP LLC

By: /s/ Justin D. Leonard

Justin D. Leonard, OSB #033736

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Counsel for Ch. 7 Trustee Jeanne E. Huffman

cc: Interested Parties, by ECF and by US Mail as follows: *none*

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BEAVERTON, OR 97006-

Alsco  
Attn: Bianca Johnson  
POB 21509  
Eugene, OR 97402-

Aluminum Screen & Window Co. Inc.  
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Salem, OR 97301-

American Guardian Warranty Services,  
Inc,  
C/O JOSEPH SAUBER ESQ.  
4N701 SCHOOL RD  
ST. CHARLES, IL 60175-

AMERICAN LINEN  
C/O PROFESSIONAL CREDIT  
SERVICE  
POB 7548  
SPRINGFIELD, OR 97475-

Angela Poore  
17320 SE Ticklecreek Rd.  
Boring, OR 97009

API  
2535 25th SE  
Salem, OR 97302-

Atco American Galvanized  
3200 West Hills Rd.  
Philomath, OR 97370-

AUTOMOXIE  
2356 NE FRANCIS PL  
GRESHAM, OR 97030-

AutoSoft Net  
POB 13236  
Oakland, CA 94661-

Bank of America  
150 North College Street 15th Floor  
Charlotte, NC 28202-

Bank of America (Credit Card)  
100 N. Tyron St. Ste 170  
Charlotte, NC 28202-

Bank of America (Merchant Services)  
150 North College Street 15th Floor  
Charlotte, NC 28202-

Barbara Cox  
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Salem, OR 97305-

BENJAMIN HERBERT  
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BEAUMONT, TX 77706-

Bullseye Products LLC  
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Las Vegas, NV 89103-

Buy.Sell.Ride  
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Portland , OR 97224

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POB 440  
SUBLIMITY, OR 97385-

Carlos Rebelez  
c/o Erica Menze, Esq.  
POB 40044  
Portland, OR 97240-

Century Link (6492)  
740 State Street  
Salem, OR 97301-

Chase Bank (Credit Card)  
270 Park Avenue  
New York, NY 10017-

Christine Spillar  
c/o Adam Hanson  
838 Commercial St. NE  
Salem, OR 97301-

Clarence and Shirley Dillon  
POB 1034  
Silverton, OR 97381-

Clyde and Marilyn Johnson  
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Mill City, OR 97360-

Community Classifieds  
PO Box 22109  
PORTLAND, OR 97269-2109

Corey Meserve and Isabelle Nava  
5355 River Rd. N.  
#111  
Keizer, OR 97303-

Cornwell Tools/Shawn Swisher  
1335 Cara Ct. NW  
Salem, OR 97304-

**EXHIBIT 1**  
**1 of 6**

Credit Union One  
re: Watson, Stan & Cecilia  
200 East Champaign Avenue  
Rantoul, IL 61866-2930

CU Direct Corporation  
2855 E Gausti Rd., #500  
Ontario, CA 91761-

D & D Satellite Inc.  
1832 Lancaster Drive NE  
Salem, OR 97305-

D&O Garbage Inc.  
POB 3967  
Salem, OR 97306-

David and Marsha Quarles  
1190 Albert Dr. SE  
Salem, OR 97302-

David George  
POB 69282  
Portland, OR 97239-

David Hagfeldt  
485 Sunwood Dr. NW  
Salem, OR 97304-

Delta Auto Glass Inc.  
865 E. Berkeley Street  
Gladstone, OR 97027-

Dex Media  
Attn: Client Care  
1615 Bluff City Hwy  
Bristol, TN 37620-

Dometic Corporation  
attn: Brad Sullivan  
13551 Triton Park Blvd. Ste 1000  
Louisville, KY 40223-

Dominian Web Solutions (Trader  
Media)  
POB 3096  
NORFOLK, VA 23514-

Earth 2O  
812 C Street  
Culver, OR 97734-

Ernest and Bonnie Rimer  
c/o Young Walgenkim  
838 Commercial St. NE  
Salem, OR 97301-

EVAN DILLON  
POB 1034  
SILVERTON, OR 97381-

Fast Undercar  
3146 22nd Street SE  
Salem, OR 97302-

FDGL (First Data Global Leasing)  
5565 Glenridge Connector NE, Ste.  
2000  
Atlanta, GA 30342-

Fed Ex  
3875 Airways, Module H3, Dept. 4634  
Memphis, TN 38116-

Federated Insurance  
121 E. Park Square  
Owatonna, MN 55060-

Ferrell Gas  
ONE LIBERTY PLAZA  
MD40  
LIBERTY, MO 64068-

FIRST DATA GLOBAL LEASING  
POB 173845  
DENVER, CO 80217-

Folkerts, Mike  
POB 9112  
Brooks, OR 97305-

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SANDY, OR 97055-

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Portland, OR 97292

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**2 of 6**

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BLDG1  
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INDUSTRIAL WELDING SUPPLY,  
INC  
POB 20340  
SALEM, OR 97307-

Interstate Batteries  
POB 2483  
EUGENE, OR 97402-

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Portland, OR 97215-

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Salem, OR 97303-

Lawson Products Inc.  
8770 West Bryn Mawr Ave., Ste 900  
Chicago, IL 60631-3515

Leisure Coachworks  
14620 Rancho Vista Dr  
Fontana, CA 92,335.00

Lowe's/Synch. Bank  
1000 Lowe's Boulevard  
Mooresville, NC 28117-

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re: Becker, Wendy & Keith  
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**EXHIBIT 1**  
**3 of 6**

Millenium Software (Atrex)  
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Salem, OR 97304-

MOUNTAIN AMERICA CREDIT  
UNION  
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735 S. STATE ST. 3RD FLR  
SALT LAKE CITY, UT 84111-

NADA Membership  
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Costa Mesa, CA 92626-

Nancy A. Snider  
Illahee RV Resort  
4751 Astorian St. NE  
Salem, OR 97305-

Natco Trading Corp (RVT.com)  
726 Cherry St. #160  
POB 8000  
Sumas, WA 98295-

Netsource Technologies  
3700 S. Pine Ave.  
Ocala, FL 34471-

Norlift of Oregon, Inc.  
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Portland, OR 97222-

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TUALATIN, OR 97062-

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Boston, MA 02241-7450

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Portland, OR 97228-

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Ste H  
Wilsonville, OR 97070-

Oma Spriggs  
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Keizer, OR 97303-

Oregon Community Credit Union  
re: Rebelez, Carlos & Kathleen  
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Springfield, OR 97475-0146

Oregon Department of Motor Vehicles  
c/o Larry Purcy, Chief of Investigations  
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Salem, OR 97301-

Pacific Solutions  
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99TH AVE  
Portland, OR 97220-

Pamplin Media Group  
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Portland, OR 97269-2109

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**EXHIBIT 1**  
**4 of 6**

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SELCO COMMUNITY CREDIT  
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Tollhouse, CA 93667-

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Albany, OR 97321-

Steven & Luanne Emerson  
9339 Charity Ave. NE  
Salem, OR 97305-

Systems 2000 (Software)  
529 Northlake Blvd. Ste 1000  
Altamonte Springs, FL 32702-

Timothy Callahan  
4066 N. Castle Ave  
Portland, OR 97227-

Travelers  
attn: H. Lee Cook, Esq.  
4207 SE Woodstock Blvd. Ste 423  
Portland, OR 97206-

UPS  
55 Glenlake Parkway NE  
Atlanta, GA 30328-

US Bank NA  
re: Panzer, Margaret  
Bankruptcy/Recovery Dept  
POB 5229  
Cincinnati, OH 45201

Robin Cable  
5744 36th Ave. SE  
#B  
Salem, OR 97317-

Service Payment Plan, Inc  
303 E. Wacker Dr. Ste 230  
Chicago, IL 60601-

Skywerks, Inc.  
46 Village Way, PMB 187  
Port Ludlow, WA 98365-

Statesman Journal  
POB 677338  
DALLAS, TX 75267-

Steven Potter  
866 E. CLAY ST  
MONMOUTH, OR 97361-

Timothy and Elizabeth Davis  
180 FLAGSTONE LN  
EAGLE, ID 83616-

Tina and Karen Spiker  
4589 47th Ave. NE  
Salem, OR 97305-

TT Marketing  
336 CYBER DR.  
STE 100  
BEND, OR 97702-

US Agencies  
c/o Monson Law Office PC  
1865 NW 169th Pl. ste 208  
Beaverton, OR 97006-

VENGROFF WILLIAMS INC  
POB 4155  
SARASOTA, FL 34230-

Ruthann and Arnold Koch  
c/o Young Walgenkim  
838 Commercial St. NE  
Salem, OR 97301-

Shannon R. Martinez  
Counsel for Mt. Amer. Credit Union  
Saalfeld Griggs PC  
250 Church St., Ste. 200  
Salem, OR 97301

Solange Albelo-Catalan and Angel Gil-  
Fraguada  
865 Sand Piper Ct. NE  
Salem, OR 97301-

Stephen and Deborah Warren  
1845 Wickshire Ave. SE  
Salem, OR 97302-

Sun Outdoor Advertising  
11221 Pacific Hwy SW  
Lakewood, WA 98499-5170

Timothy and Kim Williams  
12314 SE Long St.  
Portland, OR 97236-

Trautman Law  
530 Center St NE  
Ste 150  
Salem, OR 97301-3772

UNITUS COMMUNITY CREDIT  
UNION  
3820 MARKET ST. NE  
SALEM, OR 97301-

US Bank NA  
re: Emerson, Steven & Luanne  
Bankruptcy/Recovery Dept  
POB 5228  
Cincinnati, OH 45200

Verizon  
POB 4005  
ACKWORTH, GA 30101

**EXHIBIT 1**  
**5 of 6**



Washington State Employees CU  
attn: Melissa Ruiz  
POB WSECU  
OLYMPIA, WA 98507-

Willamette Valley Appliance  
POB 21087  
Keizer, OR 97303-

Wells Fargo Equipment Finance  
300 Tri-State International, Ste. 400  
Lincolnshire, IL 60069-4417

Wendy and Keith Becker  
1270 SW MEADOW LN  
DEPOE BAY, OR 97341-

William Harold Kavanaugh  
11667 Grouse Ln. NE  
Aurora, OR 97002-

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

Northwest R.V. Sales, Inc.,

Debtor.

Case No. 16-63655-tmb7

**TRUSTEE'S SPECIAL NOTICE TO  
POTENTIAL CREDITORS**

To: All potential creditors of Northwest R.V. Sales, Inc. ("**Northwest RV**")

From: Jeanne E. Huffman, court-appointed Chapter 7 Trustee of Northwest RV (the "**Trustee**"), by and through her undersigned counsel at Leonard Law Group LLC

Re: Commencement of Bankruptcy Proceeding, Filing a Proof of Claim, and State Court Bond Action

**Please take notice that**, as set forth in the accompanying Notice of Chapter 7 Bankruptcy Case, an involuntary chapter 7 bankruptcy proceeding was commenced against Northwest RV on December 21, 2016. Jeanne E. Huffman has been appointed as the Chapter 7 Trustee for this case. Her contact info is listed on the attached Notice. If you are a creditor of Northwest RV, please review this Notice carefully.

**Please take further notice** that this bankruptcy filing supersedes (replaces) a previous assignment for the benefit of creditors ("**ABC**") executed by Northwest RV, which had appointed Ken Eiler as the Assignee. The ABC is no longer effective. Mr. Eiler has turned over his records to the Trustee, as well as the ABC's approx. \$25,000 (from Mr. Eiler's sale of the Debtor's physical assets).

The Trustee will complete Schedules of the Debtor's assets and creditors, as well as a Statement of Financial Affairs. The Trustee will investigate and, if appropriate, pursue avoidable transfers and other claims of the company. For example, it is possible that preferential or fraudulent transfers were made to insiders. If so, they could be recovered by the Trustee for distribution to creditors.

You should disregard the instructions in any previously-received notices in the ABC proceeding. Instead, follow the instructions in the attached notices to file a claim against Northwest RV. Any claim forms that were submitted to Mr. Eiler in the ABC proceeding will **not** be recognized in this bankruptcy proceeding. You must file a new claim with the Bankruptcy Court, by following the instructions in the accompanying notices. (However, you may wish to attach your prior claim to your bankruptcy claim as a supporting document, to explain to the Trustee the basis for your claim.)

If you were involved in an allegedly fraudulent transaction with Northwest RV (for example, as the consigning party, its lender, or a purchaser who did not receive the title to the consigned RV), you may have other remedies. Northwest RV maintained surety bonds with Travelers Insurance, as Bond No. 042-S-106164820. Accordingly, Travelers has paid (interplead) the full \$120,000 of funds into the Marion Co. Circuit Court in the case captioned *Beal v. Northwest RV Sales; Travelers, et al.*, Case No. 16CV35218. If you wish to pursue a claim to the \$120,000 of bond funds, you must become a party in this Marion County Circuit Court Case No. 16CV35218. That state court bond litigation is unrelated to this bankruptcy case. You should consult a lawyer to assist you in claiming those funds in that state court case.

The Trustee invites you to monitor and participate in the bankruptcy case, if you choose to do so, and encourages you to consult with legal counsel if you have further questions.

DATED: April \_\_, 2017

LEONARD LAW GROUP LLC

By: /s/ Justin D. Leonard

**Justin D. Leonard**, OSB 033736

Direct: 971.634.0192 / Email: [jleonard@LLG-LLC.com](mailto:jleonard@LLG-LLC.com)

**Timothy A. Solomon**, OSB 072573

Direct: 971.634.0194 / Email: [tsolomon@LLG-LLC.com](mailto:tsolomon@LLG-LLC.com)

Counsel for Jeanne E. Huffman, Ch. 7 Trustee

SHAWN P. RYAN, OSB #901137  
Gus Solomon Courthouse  
620 SW Main Street, Suite 612  
Portland, Oregon 97205  
(503) 417-0477

Attorney for Russell Johnson

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re Northwest R.V. Sales, Inc.	)	Case No. 16-63655-tmb7
	)	
	)	DECLARATION OF RUSSELL
	)	JOHNSON REGARDING DEBTOR'S
Debtor.	)	DUTIES PURSUANT TO 11 U.S.C.
_____	)	SECTION 521

I, RUSSELL JOHNSON, hereby declare as follows:

1. I am the president of the Debtor and I was designated as the person to perform the duties of the Debtor pursuant to 11 U.S.C. Section 521 and Federal Rule of Bankruptcy Procedure 1007. [Doc. 5].

2. I did not, however, receive a copy of the Order for Relief and Designating Person to Perform Duties of Debtor; Trustee Appointment prior to the February 28, 2017 hearing.

3. I also did not receive a notice of the meeting of creditors, which I am told was held on February 24, 2017.

4. I am willing and able to attend a continued meeting of creditors on May 4, 2017 at 2:00 p.m. at the Bankruptcy Court in Portland to be conducted by the trustee for the purpose of asking me questions related to the duties of the Debtor.

5. I have been advised by counsel to assert my rights pursuant to the Fifth Amendment of the United States Constitution in response to certain, anticipated questions, whether at the continued meeting of creditors, a FRBP 2004 exam, or otherwise, and to not complete the schedules and lists as provided in FRBP 1007(a)(2).

March 21, 2017

/s/ Russell Johnson  
Russell Johnson

**Justin D. Leonard**, OSB 033736

Direct: 971.634.0192

Email: [jleonard@LLG-LLC.com](mailto:jleonard@LLG-LLC.com)

**Timothy A. Solomon**, OSB 072573

Direct: 971.634.0194

Email: [tsolomon@LLG-LLC.com](mailto:tsolomon@LLG-LLC.com)

**LEONARD LAW GROUP LLC**

1 SW Columbia, Ste. 1010

Portland, Oregon 97258

Fax: 971.634.0250

Counsel for Jeanne E. Huffman, Ch. 7 Trustee

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

**Northwest R.V. Sales, Inc.,**

Debtor.

Case No. 16-63655-tmb7

**DECLARATION OF JEANNE E.  
HUFFMAN IN SUPPORT OF MOTION  
FOR ORDER (1) DESIGNATING  
TRUSTEE TO PERFORM CERTAIN  
DUTIES OF DEBTOR AND (2)  
APPROVING SUPPLEMENTAL NOTICE  
TO CREDITORS**

I, Jeanne E. Huffman, declare and state as follows:

1. I am the chapter 7 trustee of the estate of the above-captioned debtor (the **“Debtor”**) in the above-referenced case.
2. I make this Declaration in support of the motion, filed herewith, for entry of an order, pursuant to 11 U.S.C. §§ 105(a), 521, 542, and Federal Rules of Bankruptcy Procedure 4002 and 9001(5), both (1) designating me to perform certain duties of the Debtor, and (2) approving a supplemental notice to creditors (the **“Motion”**).

3. On or about November 1, 2016, the Debtor voluntarily entered into an assignment for the benefit of creditors (the “**ABC**”).

4. Kenneth Eiler was the assignee of the Debtor’s assets in the ABC.

5. Mr. Eiler took possession of assets of the Debtor, including certain books and records of the Debtor, and liquidated certain assets of the Debtor. Mr. Eiler also compiled a list of potential creditors and sent out a notice of a claims bar date, as well as advising of other issues in the ABC. A copy of the Notice sent by Mr. Eiler is attached hereto as **Exhibit A**.

6. On January 30, 2017, the Court entered its Order for Relief and Designating Person to Perform Duties of Debtor; Trustee Appointment (Docket No. 5) (the “**Order of Designation**”).

7. Upon the entry of the Order of Designation, the property held by Mr. Eiler as custodian pursuant to the ABC became property of the estate and subject to turnover to the Trustee. *See* 11 U.S.C. §§ 542, 543. Mr. Eiler has since turned over his records, including proofs of claim filed in the ABC, as well as the funds of the ABC remaining after the liquidation of the Debtor’s assets by an auctioneer: approximately \$25,000.

8. Among other things, the Order of Designation required Russell Johnson, the President of the Debtor, to file documents required under Fed. R. Bankr. P. 1007 by specified deadlines, and, if he failed to do so, to appear at a hearing before the Court on February 28, 2017 to explain any failure to comply with the Order of Designation.

9. Mr. Johnson failed to comply with the Order of Designation, and also failed to appear at the February 28 hearing.

10. After the hearing, my counsel learned that Mr. Johnson has retained personal legal counsel Ron Hoevet (to advise on potential criminal law issues) and Shawn Ryan (to advise on bankruptcy law issues).

11. My counsel has discussed Mr. Johnson's participation in the case going forward with Mr. Ryan. I have been provided with a copy of and have reviewed the Declaration of Russell Johnson attached to the Motion.

12. I have arranged with the United States Trustee and the Bankruptcy Court to hold the Meeting of Creditors at the Portland courthouse at 2:00 pm on May 4, 2017, in the 8<sup>th</sup> Floor Conference Room (accessible from the 7<sup>th</sup> Floor).

13. At this continued Meeting of Creditors, Mr. Johnson may assert his Fifth Amendment rights to some questions; however, I intend to ask them anyway. I also intend to provide my own general information to the creditors in attendance regarding the bankruptcy case.

14. Notwithstanding Mr. Johnson's nonparticipation as designee, I believe I have prepared a complete creditor matrix containing actual and potential creditors of the Estate, a copy of which is attached to the Motion as **Exhibit 1**. This matrix is based on data my counsel and I obtained from a variety of sources, including from

- (a) Mr. Eiler as ABC assignee, including his schedules of those who filed proofs of claim in the ABC;
- (b) the QuickBooks records of the Debtor, which were held by the Debtor's CPA who recently turned them over to me and my counsel;
- (c) the service list in the state court Traveler's surety bond interpleader action, referenced in Traveler's Motion for Relief from Stay (Doc. 25);
- (d) the Debtor's consignment agreements, showing lienholders and consigning parties who did not get paid, as well as the sales agreements indicating the buyers of those consigned RVs who did not received titles (documents which I received from Mr. Eiler); and
- (e) my and my counsel's communications with interested parties since my appointment.

15. I believe I can complete reasonably accurate schedules of the Debtor, using documentation and records of the Debtor described above, together with documents from the Debtor's prior counsel Robert J. Vanden Bos, and the Debtor's QuickBooks financial records maintained by the Debtor's CPA Greg Rogers.

16. Prior to and during the ABC, the Debtor was represented by Robert J. Vanden Bos. Mr. Vanden Bos no longer represents the Debtor, in this bankruptcy proceeding or otherwise. However, Mr. Vanden Bos has documents and information of the Debtor in his possession or control.

17. It is my position that any documents of the Debtor in Mr. Vanden Bos's possession or otherwise are now estate property, and I hold any applicable privilege with respect to such documents.

18. Mr. Vanden Bos has turned over documents to Mr. Ryan as Mr. Johnson's bankruptcy law counsel, which Mr. Ryan is presently reviewing for alleged privilege issues so that a privilege log can be prepared.

19. I understand that for many years, the Debtor employed CPA Greg Rogers of Rogers Financial Services for tax preparation services. With permission of Mr. Ryan, Mr. Rogers has agreed to turn over the Debtor's QuickBooks file (purportedly containing the Debtor's financial records) as well as other records of the Debtor, including prior years' tax returns. Mr. Rogers completed his production to me and my counsel last week.

20. I believe the documents and information obtained from Mr. Eiler and from Mr. Rogers, along with any additional documents and information held by Mr. Vanden Bos, will provide a basis for completing at least most of the Debtor's Schedules and Statement of Financial Affairs. To the extent such documents and information are not sufficient, I may seek to examine Mr. Johnson (although it seems unlikely he would answer questions) and/or subpoena third parties in an effort to obtain additional documents and information.



I declare under penalty of perjury under the laws of the United States and of the State of Oregon that the foregoing is true and correct, and that this Declaration was executed on this 13<sup>th</sup> day of April, 2017.

/s/ Jeanne E. Huffman

Jeanne E. Huffman

# KENNETH S. EILER, P.C

*Receiver  
Attorney at Law  
Bankruptcy Panel Trustee*

PMB 810  
515 NW Saltzman Rd.  
Portland, Oregon 97229

kenneth.eiler7@gmail.com  
Phone 503.292.6020  
Fax 503.297.9402

NOVEMBER 17, 2016

TO: CREDITORS OF NORTHWEST RV SALES INC., an Oregon Corporation

RE: INSTRUCTIONS FOR FILING A PROOF OF CLAIM

Greetings,

Northwest RV Sales Inc. ceased doing business on October 31, 2016. The Company has executed an Assignment for the Benefit of Creditors in which it assigned its assets to me to liquidate. Once all remaining assets have been liquidated, tax returns filed, taxes paid, and administrative costs related thereto paid, together with any secured claims, the remaining proceeds will be distributed to general unsecured creditors.

The Assignment for the Benefit of Creditors requires me to establish the amounts owing to the Company's creditors. To accomplish this, creditors of the Company must file a Proof of Claim in the form enclosed with this letter.

The enclosed Proof of Claim form should be self explanatory. Please do not include any charges for penalties or interest accruing after November 1, 2016. Once the time for filing claims has run, I will review all of the filed claims and let you know if I have any questions. I would expect it to take up to 60 days after the claims period has run to resolve any issues that might arise.

**Please note: If you fail to file the enclosed Proof of Claim within the time allowed, you will forfeit your right to share in any of the proceeds that I collect. Claims must be received at my address set out in my letterhead within 60 days of the date of this letter.**

Several claimants have asked for my opinion concerning projected payments to allowed claims. I am very reluctant to make such a prediction. According to records provided to me by the Company, their total debt exceeds \$500,000 dollars. At this time, I do not anticipate collecting over \$50,000. In addition to distributing monies to claimants, the funds I am holding will be used to pay administrative expenses including preparation of the company's various state and federal tax returns.

If you are a someone who placed their vehicle on consignment with the Company; or, if you are someone who purchased a vehicle from the Company, but has not received title to your vehicle, then you will be receiving an additional Notice enclosed with this letter. **Please note that you must also file the enclosed Proof of Claim within 60 days of the date of this letter to share in any of the proceeds that I collect.**

Please complete and return the enclosed Proof of Claim as requested. If you have any questions, please do not hesitate to contact me. Please note that email is the best way to reach me. Thank you.

Very truly yours,  
/s/ Kenneth S. Eiler  
Kenneth S. Eiler  
enc.

**EXHIBIT A**  
**1 of 4**

# PROOF OF CLAIM

**CLAIMS MUST BE RECEIVED AT**  
**KENNETH S. EILER 515 NW SALTZMAN RD. PMB 810 PORTLAND, OR.**  
**WITHIN 60 DAYS FROM NOVEMBER 17, 2016**

IN RE: NORTHWEST RV SALES INC.

NAME & ADDRESS OF CLAIMANT:

(NOTE: THIS IS WHERE ANY PAYMENT WILL BE SENT)

---

---

---

---

Account number if any: 

---

Phone number for claimant: 

---

Email for claimant: 

---

AMOUNT OF CLAIM: \$ 

---

 (as of November 1, 2016)  
(NOTE: you must attach documents supporting the amount of your claim)

**FAILURE TO FILE A TIMELY PROOF OF CLAIM WILL PREVENT YOU FROM SHARING  
IN ANY OF THE ASSETS THAT THE ASSIGNEE MAY COLLECT**

The undersigned states under penalty of perjury that the information set out above, together with the supporting documents attached hereto, are true and correct.

---

Signature

---

Print name

**EXHIBIT A**  
**2 of 4**

NOVEMBER 17, 2016

**ADDITIONAL NOTICE**

TO: CONSIGNMENT CREDITORS OF NORTHWEST RV SALES INC., an Oregon Corporation  
RE: **AVAILABILITY OF OTHER REMEDIES**

Greetings,

It appears that prior to closing its business, the Company sold an estimated 25 vehicles on consignment, but failed to pay the consigning party. As a consequence, purchasers of those vehicles did not receive title to their vehicle. In addition, lenders with liens on the consigned vehicles did not receive payment of their liens. The **Consigning Party** that was not paid, the **Purchaser** who did not receive title, and any **Lender** with a lien on the sold vehicle that has not been paid, is a creditor in my liquidation proceeding and should file a Proof of Claim in the manner described in the enclosed letter to All Creditors.

In addition to filing a Proof of Claim, you may have other remedies.

The Company maintained a \$40,000 bond with Travelers Insurance. Many of you have already made a claim on this bond. If you wish to file such a claim, contact information is as follows. You should reference bond number 042-S-106164820.

Shannon Reilly | Claim Counsel | Travelers Bond & Specialty Insurance  
Commercial Surety Claim  
770 Pennsylvania Drive Suite 110  
Exton, PA 19341  
Ph: 610-458-2270  
Fax: 888-256-5427  
Email: [sreilly2@travelers.com](mailto:sreilly2@travelers.com)

The Oregon Department of Motor Vehicles can provide assistance to good faith purchasers wishing to obtain title to their vehicle. To request assistance, you should follow the procedures described on the attached document entitled: **PROCESS FOR OBTAINING TITLE WHERE DEALER OUT OF BUSINESS**

The Oregon Department of Justice has opened an investigation regarding the sale of consignment vehicles and the failure to remit funds to the consigning party. If you wish to be included in that investigation, you should contact the state investigators noted below:

Larry Purdy, Chief of Investigations, Oregon DMV  
503-945-5287  
[larry.w.purdy@odot.state.or.us](mailto:larry.w.purdy@odot.state.or.us)

Dale Geiger, Investigator, Oregon Department of Justice  
503-934-4405  
[dale.e.geiger@doj.state.or.us](mailto:dale.e.geiger@doj.state.or.us)

I do not anticipate being involved in these 'other remedies' except to provide information to the Bonding Company and Investigators when requested. I am also able to provide you with the name and contact information for the Purchaser and Consigning Party for your transaction. You may request this by sending an email to my attention. Thank you.

/s/ Kenneth S. Eiler  
enc.

**EXHIBIT A**  
**3 of 4**

## **PROCESS FOR OBTAINING TITLE WHERE DEALER OUT OF BUSINESS**

DMV does have a process whereby we assist purchasers in obtaining title for vehicles when the dealer has gone out of business without providing the title. However, that process involves attempts to obtain a release of interest from the owner(s) and security interest holder (if any). Obviously, they are not usually open to releasing interest when they have not been paid.

The process begins with the purchaser completing a Request for Investigation and submitting it to the DMV Business Regulation Unit. Here is a link to the form on the DMV website:

<http://www.odot.state.or.us/forms/dmv/6504fill.pdf>

The phone number for the unit is 503-945-5281.

**CERTIFICATE OF SERVICE**

I certify that on the undersigned date, I will have caused this **MOTION FOR ORDER (1) DESIGNATING TRUSTEE TO PERFORM CERTAIN DUTIES OF DEBTOR AND (2) APPROVING SUPPLEMENTAL NOTICE TO CREDITORS** to be served on interested parties requesting notice through the Court's CM/ECF system, as well as by first class U.S. mail on the following parties requiring special notice:

*none*

DATED: April 13, 2017

By: /s/ Justin D. Leonard  
Justin D. Leonard, OSB 033736